

REMARKS

Claims 1-20 are currently pending in the present application. Claims 4 and 20 stand withdrawn from consideration by the Examiner as being directed to a non-elected invention.

The rejection of claims 1-3 and 5-19 under 35 U.S.C. § 103(a) as being obvious over Viscovitz (WO 01/30315) in view of Kipp (U.S. 2004/0022862), as evidenced by Chiarelli (U.S. 2003/0147825), is respectfully traversed.

Claim 1 is directed to a skin cleansing agent comprising: (a) 1-70 wt. % of at least one ethoxylated amine and/or ethoxylated diamine; (b) 30-70 wt. % of at least one polyethylene glycol of the general formula $\text{HO}-(\text{CH}_2\text{CH}_2-\text{O})_n\text{H}$, wherein n is an integer of from 1 to 150; (c) 1-30 wt. % of at least one fatty alcohol polyglycol ether; (d) 0.1-5 wt. % of at least one complexing agent; (e) 0-30 wt. % of at least one reducing or oxidizing agent; (f) 0-25 wt. % of one or more abrasives; (g) 0-10 wt. % of at least one polyhydric alcohol; (h) 0-3 wt. % of water; (i) optionally one or more viscosity-building agents; and (j) optionally one or more cosmetic adjuvants, additives and/or active substances, wherein the sum of components (a)-(j) constitutes 100 wt. % of the cleansing agent.

Viscovitz describes a skin cleansing composition suitable for removing ink stains, wherein the skin cleansing composition comprises a synergistically effective amount of: a low molecular weight $\text{C}_1\text{-C}_{12}$ alcohol (e.g., alkanol); and a peroxide releasing agent (e.g., a percarbonate salt) (See e.g., abstract, page 1, lines 4-9, page 4, lines 3-6 and 23-33, page 5, lines 1-4). Viscovitz describes that the skin cleansing composition may further comprise other additives (e.g., ink solubilizing agents, fillers, abrasives, detergents, thickeners, surfactants, pH adjusters, chelating agents, fragrances, colorants, opacifiers, pearlizing agents, vitamins, antimicrobial agents) (See e.g., abstract, page 6, line 31 to page 9, line 9). Viscovitz describes that the skin cleansing composition should have a pH of 4-12, preferably 4-8, and that less than 1 wt. % of any acid (e.g., citric acid, lactic acid, acetic acid, glycolic acid and gluconic acid) compatible with the ingredients of the skin cleansing composition can be used (See e.g., page 8, lines 19-24).

Kipp describes a method for preparing small particles of organic compounds by precipitating the organic compounds in an aqueous medium to form a pre-suspension followed by adding energy to stabilize a coating of the small particles or to alter the lattice structure of the small particles (See e.g., abstract, [0004], [0008], [0049]). The process of Kipp comprises: (i) dissolving the organic compounds in a water-miscible first solvent to form a solution; (ii) mixing the solution with a second solvent to define a pre-suspension of particles; and (iii) adding energy to the pre-suspension to form a suspension of particles having an average particle size of less than about 100 μm . Kipp describes a plethora of various solvents that may be suitable for use in the above-mentioned process (See e.g., [0058]-[0064]). Kipp describes polyethylene glycol and various derivatives thereof among a tremendously large genus of suitable solvents (See e.g., [0063]).

Chiarelli describes a personal care composition comprising: (A) a topically acceptable liquid phase; and (B) at least one electrolyte tolerant inverse emulsion polymer comprising the reaction product of: (1) at least one complex associative monomer having ethylenic unsaturation in an end group, a hydrophilic midsection, and a hydrophobic moiety; (2) at least one pH sensitive monomer having ethylenic unsaturation and at least one carboxylic or sulfonic acid group; (3) an optional copolymerizable non-ionic monomer having ethylenic unsaturation; and (4) at least one crosslinking monomer (See e.g., abstract, [0012]-[0016], [0020]-[0025]). Chiarelli describes that the personal care composition may further comprise other additives (e.g., humectants, emollients, fragrances, biologically active materials, botanical extracts, conditioners, sunscreens, pharmaceutical actives, conditioning polymers, vitamins, cleansing surfactants, preservatives, opacifiers, rheology modifiers, emulsifiers, chelating agents, neutralizing agents and pH adjusters, spreading aids, viscosity adjusters, and colorants) (See e.g., [0074], [0075]). Chiarelli describes PEG-15 cocamine among a tremendously large genus of neutralizers and pH adjusters (See e.g., [0109]).

Applicants respectfully submit that a skilled artisan would not have been motivated to combine Kipp with the ***clearly unrelated references*** of Viscovitz and Chiarelli, since Kipp is directed to a method for preparing small particles of organic compounds by precipitating the organic compounds in an aqueous medium to form a pre-suspension followed by adding energy to stabilize a coating of the small particles or to alter the lattice structure of the small particles, whereas Viscovitz is directed to a skin cleansing composition suitable for removing ink stains and Chiarelli is directed to a personal care composition.

Kipp mentions polyethylene glycol and various derivatives thereof among a ***tremendously large genus*** of suitable solvents. Applicants therefore submit that even if sufficient motivation and guidance is considered to exist for a skilled artisan to combine Kipp with the unrelated references of Viscovitz and Chiarelli, which is clearly not the case, a skilled artisan would not have arrived at the skin cleansing agent of the present invention comprising the claimed combination of (a) 1-70 wt. % of at least one ethoxylated amine and/or ethoxylated diamine and (b) 30-70 wt. % of at least one polyethylene glycol of the general formula $\text{HO}-(\text{CH}_2\text{CH}_2-\text{O})_n\text{H}$, wherein n is an integer of from 1 to 150, based on the disclosures of the cited references, ***absent impermissible hindsight reconstruction***, thereby precluding a *prima facie* case of obviousness.

The mere fact that a claimed species is encompassed by a prior art genus is not sufficient by itself to establish a *prima facie* case of obviousness. See e.g., *In re Baird*, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994); and *In re Jones*, 21 USPQ2d 1941, 1943 (Fed. Cir. 1992). A *prima facie* case of obviousness requires that the prior art provide a skilled artisan with sufficient motivation and guidance to arrive at the claimed compounds. See e.g., MPEP § 2144.08(II)(A)(4), *Takeda v. Alphapharm*, 83 USPQ2d 1169, 1174 (Fed. Cir. 2007); and *In re Lahu*, 223 USPQ 1257, 1258 (Fed. Cir. 1984). A reference must be considered in its entirety, including disclosures that teach away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983).

The Examiner alleges on page 4, lines 7-8 of the Official Action that “PEG-15 cocamine is utilized in the Viscovitz composition as a pH adjuster.” This allegation constitutes clear error which is unsustainable on appeal.

Contrary to the Official Action, Applicants submit that sufficient motivation and guidance does not exist for a skilled artisan to particularly select the PEG-15 cocamine of Chiarelli from among the tremendously large genus of neutralizers and pH adjusters described therein and known to those of ordinary skill in the art for use in place of the acid pH adjusting agents described in Viscovitz, since Viscovitz ***limits the pH adjusting agents to acids*** and those of ordinary skill in the art would immediately recognize that the acids (e.g., citric acid, lactic acid, acetic acid, glycolic acid and gluconic acid) of Viscovitz have *fundamentally different physicochemical properties* from the PEG-15 cocamine of Chiarelli.

Even if sufficient motivation and guidance is considered to exist for a skilled artisan to particularly select the PEG-15 cocamine of Chiarelli for use in place of the acid pH adjusting agents of Viscovitz, which is clearly not the case, Viscovitz discloses that the acid pH adjusting agents are present in an amount of ***less than 1 wt. %***, based on a total weight of the skin cleansing composition, which ***clearly outside*** the claimed range of ***1-70 wt. %*** of at least one ethoxylated amine and/or ethoxylated diamine. Accordingly, Viscovitz ***explicitly teaches away*** from the skin cleansing agent of the present invention comprising 1-70 wt. % of at least one ethoxylated amine and/or ethoxylated diamine, as presently claimed.

Assuming *arguendo* that sufficient motivation and guidance is considered to have been provided by the cited references to arrive at the skin cleansing agent of the present invention comprising the claimed combination of (a) 1-70 wt. % of at least one ethoxylated amine and/or ethoxylated diamine and (b) 30-70 wt. % of at least one polyethylene glycol of the general formula $\text{HO}-(\text{CH}_2\text{CH}_2-\text{O})_n\text{H}$, wherein n is an integer of from 1 to 150, which is clearly not the case, such a case of obviousness is rebutted by a showing of *unexpected results*.

As discussed in the present specification, Applicants have discovered that the skin cleansing agent of the present invention, which comprises the specific combination of (a) 1-70 wt. % of at least one ethoxylated amine and/or ethoxylated diamine (e.g., Ethoduomeen OV/13 and/or Ethomeen OV/12) and (b) 30-70 wt. % of at least one polyethylene glycol of the general formula $\text{HO}-(\text{CH}_2\text{CH}_2-\text{O})_n\text{H}$, wherein n is an integer of from 1 to 150 (e.g., Polydiol 400), in accordance with an exemplary aspect of the present invention, *surprisingly exhibits a remarkable ink cleansing effect that is comparable to that of conventional skin cleansing agents which alternatively comprise up to 2.8 wt. % of free diethanolamine* (See e.g., paragraphs [0007]-[0013], [0048] and [0049] of the published specification of Blaeser, U.S. 2007/0041927).

In addition, as shown by the comparative experimental data appended herewith, Applicants have demonstrated that the formulation of Example A, which contains the specific combination of (a) at least one ethoxylated amine and/or ethoxylated diamine (e.g., PEG-2 rapeseed amine) and (b) at least one polyethylene glycol of the general formula $\text{HO}-(\text{CH}_2\text{CH}_2-\text{O})_n\text{H}$, wherein n is an integer of from 1 to 150 (e.g., PEG-8), which is representative of the invention claimed in the above-identified U.S. patent application, exhibits an unexpectedly superior ink cleansing effect as compared to the conventional formulation of Comparative Example B having an identical composition, but replacing PEG-2 rapeseed amine with an equivalent amount of an alkali hydroxide (e.g., KOH) as a pH regulator.

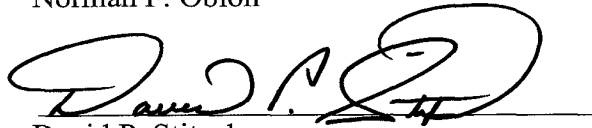
Viscovitz, Kipp and Chiarelli, when considered alone or in combination, fail to recognize that unexpectedly superior ink cleansing properties are exhibited by the skin cleansing agent of the present invention comprising the claimed combination of (a) 1-70 wt. % of at least one ethoxylated amine and/or ethoxylated diamine and (b) 30-70 wt. % of at least one polyethylene glycol of the general formula $\text{HO}-(\text{CH}_2\text{CH}_2-\text{O})_n\text{H}$, wherein n is an integer of from 1 to 150.

Withdrawal of these grounds of rejection is respectfully requested.

In conclusion, Applicants submit that the present application is now in condition for allowance and notification to this effect is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "David P. Stitzel", written over a horizontal line.

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